

REMARKS

Status of the Claims

Claims 1, 3, 4, 7 and 9 are currently pending in the application. Claims 1, 3, 4, 7 and 9 stand rejected. Claim 1 has been amended without prejudice or disclaimer. No new matter has been added by way of the present amendments. Specifically, the amendment to claim 1 is to remove the word “comprising” and insert the phrase “consisting essentially of.” Reconsideration is respectfully requested.

ENTRY OF AMENDMENTS

The amendments to claim 1 should be entered by the Examiner because the amendment is supported by the as-filed specification and does not add new matter to the application. Additionally, the amendment should be entered since it complies with requirements as to form, and places the application in condition for allowance. Further, the amendment does not raise new issues or require a further search since the amendment is supported by the as-filed specification. Finally, if the Examiner determines that the amendment does not place the application in condition for allowance, entry is respectfully requested since it removes issues for appeal.

Rejections Under 35 U.S.C. § 103(a)

Claims 1, 3, 4, 7 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kubo, JP 58045401 (hereinafter, “Kubo”) in view of Yasumi, JP 2001-055672 (hereinafter,

“Yasumi”). (*See*, Office Action of April 25, 2008, at pages 2-3, hereinafter, “Office Action”). Applicants traverse the rejection as hereinafter set forth.

The Examiner states that Kubo discloses coloring hair black with compositions comprising iron salts, hydrogen peroxide and 3,4-dihydroxybenzaldehyde. The Examiner states that Kubo discloses adjusting the pH and discloses use of iron salts of sulfates and copper salts of acetates. The Examiner admits that Kubo does not disclose or suggest use of temperatures of 40 °C or higher. However, the Examiner cites to the disclosure of Yasumi which the Examiner believes discloses coloring hair without using dyes at a temperature of 40 °C.

The Examiner concludes that it would have been obvious for a person of ordinary skill in the art to modify the teachings of Kubo to perform the reaction at 40 °C as disclosed in Yasumi. The Examiner believes that Yasumi discloses that a higher temperature is efficient for dyeing animal hair when using a similar hydroxybenzaldehyde compound, without a dye.

Applicants note that the method of Kubo includes additional steps which are not recited in the present claims. For instance, Kubo appears to disclose treating the hair separately with first a metal salt solution, and then the precursor solution.

Although Applicants do not agree that the combined disclosures of Kubo and Yasumi support a *prima facie* case of obviousness, to expedite prosecution, claim 1 has been amended to remove the preamble transition “comprising” and replace it with the phrase “consisting essentially of.” Applicants believe that by this amendment, Applicants have sufficiently distinguished their claimed invention over that disclosed by Kubo and/or a combination method including the disclosures of Kubo and Yasumi. That is, all of the limitations of the presently

claimed invention are not disclosed or suggested by the combined disclosures of Kubo and Yasumi.

Therefore, reconsideration and withdrawal of the obviousness rejection of claims 1, 3, 4, 7 and 9 are respectfully requested.

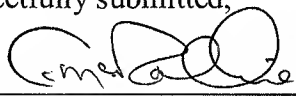
CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No. 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under §1.17; particularly, extension of time fees.

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Respectfully submitted,

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